Office of the
Ohio Consumers' Counsel

Robert S. Tongren
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Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-45

Dear Secretary:

Enclosed please find the original and four (4) copies of the Office of the Ohio Consumers' Counsel's Reply Comments to be filed in the above referenced proceeding.

Please date-stamp and return the additional copy in the pre-addressed, postage prepaid envelope to acknowledge receipt.

Sincerely,

David C. Bergmann
Assistant Consumers' Counsel

DCB/pjm

Enclosure

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S REPLY COMMENTS

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May 7, 1996

TABLE OF CONTENTS

PAGE

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	

SUMMARY OF
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
REPLY COMMENTS

The Office of the Ohio Consumers' Counsel responds to a selection of the key issues raised by the initial comments filed in this docket.

By and large, residential basic service rates are not priced below cost. Thus there is no need for widespread rate rebalancing. This also means that the amount of universal service support needed to keep rates affordable (*i.e.*, at their current level) is minimal, even in high cost areas of the country. In those areas, the cost of the local loop (the principal driver of high cost) must be shared among all local exchange and toll services. That sharing means that any decreases in access charges (including the Carrier Common Line charge) should not result in increases in end user rates.

On general policy issues, OCC disputes many of the positions taken by Citizens for a Sound Economy Foundation. These theoretical positions essentially ignore the existence of the legislative mandates on universal service contained in the Telecommunications Act of 1996.

With regard to the key concept of affordability contained in the Act, OCC agrees that both relative and absolute affordability must be considered. OCC finds support for the position that current rates are affordable, and that this Commission need not specifically select an affordability benchmark.

Another key question is what services are to be supported in high cost areas and for low income consumers. OCC argues that flat rate usage must be included in the universal service package and finds flaws in the positions of those who would not include usage. OCC also notes other services that should be included.

Brief comments follow on when a re-evaluation of the included services should be made. OCC revises its position to support a three year period. OCC also briefly addresses low income programs and programs for schools and libraries.

Finally, OCC finds fault with the arguments of those who would place additional conditions on carriers' receipt of universal service support. These positions conflict with the specific provisions of the Act.

BEFORE THE
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THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S REPLY COMMENTS

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel (OCC) is pleased to offer its reply to various of the other parties who have filed comments in this crucial docket. The universal service features of the Telecommunications Act of 1996[1], like many other features of the Act, build on resolutions of this Commission and state regulatory commissions, but provide specificity of detail and direction. Universal service has always been a fundamental principle of telecommunications service in this country. That prominence continues under the Act.

The schedule Congress has imposed on this Commission in the Act for rulemakings is a tight one. Correspondingly, the Commission has imposed strict timelines and strict limitations on the number of pages for comments and reply comments. Notice of Proposed Rulemaking (March 8, 1996) ("NPRM") at ¶ 71. *See* MoPSC at 2, 3-4. Given

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[1]. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), *to be codified at* 47 U.S.C. §§ 151 *et seq*. In these Comments, OCC has adopted the Commission's convention for referring to the 1996 Act: *See* NPRM at ¶ 1, n. 3.

those factors, as well as resource limitations,[2] despite OCC's interest in virtually all of the subjects in the NPRM, we cannot take the time (or the space) to list any but the most prominent comments with which we agree. We concentrate on responding to those comments expressing the most important notions *not* in the public interest and contrary to the intent of Congress.[3]

For instance, OCC agrees with virtually everything in the NASUCA comments. We would particularly stress OCC's agreement with NASUCA's position on whether residential service is in fact currently subsidized. NASUCA at 13-15. We agree that, in most instances, contrary to the conventional wisdom, residential service is *not* subsidized. In the jurisdictions cited by NASUCA (*id.*) an examination of the evidence (rather than the pronouncements of the industry) has shown that residential service holds its own. The most recent affirmation of this truth has come from the Washington Utilities and Transportation Commission. In *Washington Util. and Transportation Comm'n v. U S West Communications, Inc.*, Docket No. UT-950200, Fifteenth Supplemental Order (April 11, 1996) at 10, the Washington Commission found that "[t]here simply is no local service subsidy." That commission found that a "$10 50 [statewide] rate covers the cost of

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[2] Almost two hundred fifty comments were filed in this docket in response to the NPRM. OCC has purchased and reviewed some fifty of those comments. OCC has attempted to review a good cross-section of the filed comments. The comments discussed by OCC in these reply comments are listed, along with the short references naming the commenters, in the Appendix hereto. The failure to address any commenter's position, whether in comments reviewed or not, should not be deemed acquiescence in that position.

[3] Issues such as whether to bill carriers for universal service support based on gross or net revenues or number of lines or minutes, and whether there should be a bidding process to establish baseline levels of support, are very important. The space limitations prevent us from addressing those questions in addition to those dealt with herein.

local residential service and provides a substantial contribution to shared and common costs." *Id.* Further, we agree with AHTUC (at 13-17) that revenues from Yellow Pages and the entire average residential service package must be considered in whether the *basic* residential package needs a subsidy mechanism. Given this overall lack of subsidy, there is no need for "rebalancing" of residential rates.

As noted by NASUCA (at 14), a major flaw in the typical local exchange carrier (LEC) cost study is that it assumes that the entire cost of the loop is a cost of local service. *See* TexPUC at 16; WUTC at 18. (This flaw is shared by the Benchmark Costing Model.[4]) As NASUCA stated in its comments in CC Docket 80-286 filed on October 6, 1995, all local services should be responsible for no more than 50% of the cost of the loop.[5] We also agree with AARP (at 17) that the cost of the loop has been falling.

Under these circumstances, a minimal amount of universal service support should be needed, even in high cost areas and for low income consumers, to keep rates for the residential basic services that are ncluded in the definition of universal service affordable. The task imposed by the Act is to keep those services' rates affordable for all, and to increase penetration: to "preserve and enhance universal service." Sec. 254(b).[6]

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[4] Thus US West's calculation of the amount of universal service funding required (at 10), being based on the Benchmark Costing Model, shares the flaw.

[5] NASUCA's comments in this docket state (at 23) that the "Basic Service Rate Element" should bear no more than 50% of loop costs. "Basic Service Rate Element" is not defined there; we assume that, for consistency with the CC Docket 80-286 comment, that element equates to all local service.

[6] As noted by, *e.g.*, OPC-DC (at 2-6), another key to enhancing universal service is a prohibition on disconnection of local service because of failure to pay long-distance charges.

It is argued by many parties, especially the interexchange carriers (IXCs), that the access charges they pay have been inflated in order to keep residential basic service rates low. *See, e.g.*, AT&T at 2. Based on the Washington findings, and given the average basic residential rate of $20 throughout the nation (MCI at 3-4), it is clear that any actual subsidy to residential service is at most a minor part of access charges.[7]

Thus it is entirely feasible for access charges to be reduced without an increase in end user rates. OCC very strongly agrees with NASUCA that the solution to "supracompetitive" access charges (*see* AT&T at 2) is not an end-user surcharge. *See* NASUCA at 15. AHTUC (at 19, n. 26) argues that in Massachusetts over the years 1989-1992, while the state commission increased local exchange rates and decreased toll charges, there was no statistically significant change in penetration rates. Yet nationwide, penetration rates *increased* during that period, from 93.6% in March 1989 to 96.6% in March 1992. A. Belinfante, *Telephone Subscribership in the United States*, FCC (February 1996). It may be, then, that Massachusetts' experiment actually inhibited growth in penetration, in other words, prevented the "advancement of universal service." Section 254(b).

We would go farther than NASUCA in some instances. NASUCA recommends that the Commission should *consider* prohibiting disconnection of basic service for non-payment of non-basic charges and should *consider* requiring carriers to provide toll restriction. NASUCA at 6. OCC believes that the Commission should adopt such policies, not just consider them.

[7] As pointed out by NECA (at 13), USF costs in 1995 represented only 2.2% of the industry's total unseparated revenue requirement assigned to the loop.

These reply comments are organized by general topic. They do not necessarily follow the Commission's organization as set forth in the NPRM.

II. GENERAL POLICY

OCC agrees with AARP (at 12-14) that universal service, as defined by and mandated by the Act, includes more than high-cost and low-income support. *See also* TOPUC at 2-3. As set forth in the Act, the universal service mandate of **just** and **reasonable** and **affordable** services applies to all subscribers.[8] Thus we must disagree with NYNEX (at 2) that the only support mandated by the Act goes to low income, rural and high cost areas. *See also* ALTS at 7, complaining that the existing support mechanisms "are not targeted or limited specifically to consumers that would otherwise be unable to obtain affordable local service." We also object to MFS' gloss on the Act that "universal service subsidies should be provided only in extraordinary circumstances." MFS at 2. Nothing in the Act indicates that there should be anything extraordinary about just and reasonable and affordable rates. They are to be the norm, not the exception. *See id.* at 13.

As noted above, however, in most locations the universal service package will not require any support to remain affordable for most customers. We agree with CompTel (at i) that "rural support targets geographic regions and specific services, while low income support targets specific subscribers." *See also* LCI at 4.

[8] Perhaps the Commission believes that in other areas competition will automatically produce rates that are just and reasonable and affordable. This exaggerates the impact of competition, at least in the short-term.

On the general policy issues, CSE is a prime target. For instance, as to the overall subject of support, CSE states (at 3) that "a universal service policy built on the practice of overcharging some customers to help others will quickly collapse." The Act clearly contemplates some customers paying less than the full cost of their individual service in order to preserve and enhance a vibrant, ubiquitous telecommunications network. The explicit provision of the Act for a universal service support mechanism (Sec. 254(b)(4) and (5)) represents an official determination that it *is* inequitable to require those who "choose" to live in rural (high cost) areas to pay the true cost of providing their services. Otherwise, no support would be needed other than for low-income consumers. *See* CDCA at 13; AHTUC at 18. The existence of support mechanisms necessarily implies that some other customers will be paying more than their precise cost share. Yet if the cost burden is spread among all providers of telecommunications services, as required by the Act (Sec. 254(d)), the burden on any particular consumer from universal service support will be minimized.[9]

CSE also states that "the use of a broad definition of 'essential' services unfairly burdens the many remaining customers who must pay this subsidy." CSE at 6. First, there is the question of how great the burden is: As previously noted, with funding spread to all carriers (Sec. 254(d)) the burden is minimized. More fundamentally, however, we now have an explicit legislated national policy for a broad and affordable definition of universal service, with specific provisions for support mechanisms. This represents some sort of

[9] It should be recalled that telephone service, unlike other utility service, has significant externalities. *See* Benton at 2; PAW, *et al.* at 4-5. It is more valuable for society and each customer to be on a network of 100% penetration than one of only 90% penetration.

determination that as a nation we have decided that universal service support, if explicit and competitively neutral, is fair.[10]

We must also address CSE's argument (at 6-7) that excessive subsidies for wireline service may have hampered the ability of wireless to compete, despite lower costs. It is important to carefully follow CSE's logic: With the subsidy, wireline service is priced below the cost of wireless service. So the subsidy should be removed. Then rates for basic service will increase, and wireless carriers will be in a better position to compete. Where is the benefit to universal service in that?

CSE states (at 4) that "practices such as rate averaging are an indirect, implicit means of subsidization." Yet the 1996 Act *mandates* rate averaging for interexchange services. The benefits of interexchange averaging are also applicable to averaging of exchange services. *See, e.g., Policy and Rules Concerning Rates for Dominant Carriers*, Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873, 3132 (1989). It is difficult to see how, from a global public policy perspective, averaging for interexchange services but not for local services can be justified. CSE's theoretical proposition also has practical problems: Taken to its logical extreme, doing away with rate averaging would require specific rates for each customer. *See* NYNEX at 5.

Ameritech (at 3) puts action behind CSE's general principles:"[I]mplicit subsidies must be eliminated and rates -- especially local exchange rates -- must be rebalanced to

[10] The explicit legislated nature of the universal service policy also counters CSE's notion (at 6) that "the choice of which services will receive a subsidy involves a type of industrial policy inimical to a competitive market." As the philosopher said, "Not to choose is to choose." Having made the decision that some services may be in need of support (or subsidy), we must choose which those services might be.

reflect the actual cost of providing service." *See also* CBT at 2. Yet if the economically correct definition of "subsidy" is followed, as discussed above, it is clear that residential service is not subsidized. See NASUCA at 13-15. As noted above, in Washington, the regulatory commission has recently "rebalanced" rates without an increase and established a uniform statewide rate for US West. As the WUTC states, "Because telecommunications costs are expected to continue to fall as advances in technology occur, issues of comparability of rates between rural and urban areas may become less significant." WUTC at 6.

In those limited circumstances where costs actually justify differences in rates (presumably between extreme rural and densely populated urban areas[11]), those differences are constrained by the Act's provisions that rates be reasonably comparable between rural and urban areas. Sec. 254(b)(3). Further, the nature of local rate structure is an intrastate issue not within the Commission's jurisdiction.

Ameritech states (at 8) that subsidies should go only to targeted households who need a subsidy after rate rebalancing. As mentioned above, nothing in the Act even

[11] Clearly, there are counterbalancing factors which tend to increase the cost of urban service, such as the cost of uprooting urban thoroughfares not present in a rural setting. LCI (at 6, n. 5) says that rates in rural areas "should be allowed to rise to levels comparable to those paid by urban subscribers." In Ohio, no such discrepancy exists, other than the "value of service" differential, which states that the more people who can be reached by a local telephone call, the more valuable the service. This is another reason for looking at the entire bill (including short-haul toll) in assessing whether rates are affordable.

suggests that rate rebalancing is necessary; neither does anything in the Act suggest that universal service support should go only to targeted households.[12]

AHTUC (at 18) argues that "basic telephone service has gradually become cheaper relative to inflation, while prices of other items in the typical household's core budget have risen at about the rate of inflation" and, therefore, "modest rate increases" are appropriate. Yet few other items in a household's core budget are produced by a demonstrably "declining cost" industry

NASUCA (at 10-11) proposes additional universal service principles for the Commission to consider; as requested in NPRM ¶ 8. OCC supports each of these principles. They will help to ensure that as many residential consumers as possible benefit from competition, yet will help to protect consumers from negative impacts. This is key to preserving *and advancing* the universal service goal. *See* PAW, *et al.* at 9.

Another general principle that this Commission should adopt is that proposed by NARUC (at 4), of cooperation between State and Federal authorities on this vital issue. *See also* TexPUC at 4. We also support the principle noted by NARUC (at 4-7) that the Commission should not undermine state flexibility. *See* OCC Initial Comments at 5-7.

RIITA states (at 1) that the "intent of Congress is to **FIRST**, preserve and advance universal service and **SECONDLY**, to foster a pro-competitive environment." (Emphasis in original.) Although we would like to agree with RIITA on this, OCC cannot find evidence of Congressional intent of such priority. Yet it is clear that Congress intended universal service to be preserved and advanced in the pro-competitive environment.

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[12] Ameritech is internally inconsistent on this issue. Where Ameritech discusses (at 10-11) how to calculate the subsidy, it is clear that it is not targeted.

III. AFFORDABILITY

We agree with AARP (at 7-8) that there is a need for measurements of both relative and absolute affordability. We also agree that the customers' total bill is relevant. AARP at 18; Century at 4; *see also* Time Warner at 7, n.13 (affordability should be measured over a "basket" of services). For instance, RIITA (at 3) states that the cost of installation, and the scope of local calling area should be used to determine affordability. *See also* USTA at 21, n.28. Maine, *et al.* (at 11-12), in dealing with the concept of "reasonably comparable" rates, also discuss many of the difficulties of assessing affordability. These are all issues which vary from state to state, supporting OCC's initial view that defining affordability should be left up to the states.

MCI states (at 3-4) that the current average rate for basic telephony is about $20. AHTUC puts the number at $16.76. AHTUC at 19. This supports WVCAD's position (at 8) that there should be a presumption of current rates' affordability. *See also* AT&T at 16 (presume that current rates are affordable for all except those qualifying for low-income assistance); JSI at 6. US West (at 12) would set an affordability standard of $30 per month. This proposal is driven by the size of the USF that amount would dictate (which, as previously noted, is also based on the Benchmark Costing Model's flawed assumption that all loop costs are a cost of basic service) Clearly this "backs in" to the notion of affordability in an unacceptable fashion.

Time Warner (at 7) is among those who would complicate this issue, calling for an affordability benchmark that represents the upper end of the range of total charges for local services that individual residential subscribers must pay without support. Time

Warner argues that rates should be deemed affordable if the price is at or below the highest rate where residential penetration is within 5% of the jurisdiction-wide average. Initially, that would be the highest rate of the incumbent LEC. Sprint would have the benchmark "be based on the national average rate for basic residential telecommunications service in urban areas." Sprint at 9. Such a benchmark is simply not necessary. As TCG states (at 10), there is "no reason to adjust existing rates ... to some national benchmark level."

USTA's discussion of affordability is seriously flawed. USTA would establish "[a]n interstate affordability benchmark equal to the nationwide average loop cost." USTA at 15; *see also* US West at 8. (Support amounts would then be based on the difference between the benchmark and the actual loop costs per line for the service area. *Id.* at 17, n.23.) It is clear that the *rate* that consumers pay does not enter into USTA's calculation, and a carrier would receive the same amount of support regardless of that actual rate. This does nothing to ensure that *consumers'* rates are affordable, as required by the Act. Sec. 254(b)(1).

IV. WHAT ARE THE SERVICES?

CSE would have the Commission ignore or downplay the statement of policy that services subscribed to by a substantial majority of residential customers should be considered part of universal service, in favor of the other policy statement of being essential to education, public health, or public safety. CSE at 7; *see also* AHTUC at 4; CompTel at 5. This position conflicts with the Commission's conclusion that the four policies are to be cumulative, not exclusive. NPRM at ¶ 9. There is no indication of Congressional intent to favor any one of the four policies over the others.

AARP (at 9), Edgemont (at 12), LINCT (at 3-4), MCI (at 3), PUCO (at 4), and TexPUC (at 8) support including flat rate residential service in the universal service package. On the other hand, Time Warner (at 4) would include some base level of usage, but not flat rate. Time Warner does not explain how that "base level" would be determined, or why, in fact, flat rate should not be part of the package.[13]

OCC fervently disagrees with IllCC's statement (at 3) that "usage itself should not be included as a part of basic universal service, except possibly a small amount that could be used for critical communications." IllCC's rationale (*id.*) that "discretionary usage should be subject to market influences" because "usage is a key element through which competitive telecommunications providers can differentiate themselves" clearly overstates the impact of universal service support: For the vast majority of consumers, universal service support for usage will not be necessary, and with those customers, providers can differentiate themselves to their heart's content. IllCC also (*id.*) is concerned about the subsidy "creating a bias toward higher consumption for subsidized services ... for no reason other than the presence of a subsidy." OCC submits that *encouraging* greater usage of the telecommunications network, here on the threshold of the "information age," is in fact a major purpose behind the Act. There is a clear divergence between the standard IllCC applies to usage and that it applies to the other basic service elements. *See id.* at 3-4

[13] PaPUC would include "local service usage" in its definition of universal service. PaPUC at 14. It is unclear whether this is measured or flat rate usage.

As TCG states (at 5), "A service that has been selected voluntarily and paid for by a substantial majority of all non-subsidized residential consumers in a market or service territory probably can be offered to all customers without placing an unreasonable cost burden on other customers or carriers." Flat rate service passes these tests.

AT&T (at 12), CBT (at 4), GTE (at 2), and NYNEX (at 11) include no usage in the package, but do not explain why. OCC notes that AT&T (at 13) states that the core services should allow a consumer "to become a full participant in the telephone network." Participation in the network clearly requires usage of the network. Further, AT&T also proposes a requirement that services included in the package "contribute to network efficiencies." *Id.* In fact, flat rate service promotes network efficiency by giving carriers additional incentives to lower the cost of usage

In an interesting twist, AT&T (at 12, n. 15) wants averaged toll rates resulting in prices below cost to receive universal service funding. But AT&T would not have IXC services included in the definition of core services. *Id.* Under the Act, only those services included in the definition can be supported. Sec. 254(c)(1). AT&T cannot have it both ways.[14]

With regard to the spectrum of services included in the definition of universal service, CBT states (at 2): "Once a truly competitive market is established, the Commission should allow market forces to determine what services should be made available and at what price." The Act clearly requires the Commission (with the assistance of the Joint Board) to make that determination. Perhaps CBT is proposing regulatory

[14] AT&T (at 18) also wants below cost access charges to receive funding. AT&T does not explain how this would be consistent with the Act

forbearance on this issue; if so, OCC would only note that the day of a ubiquitous "truly competitive market" for local exchange service still seems quite far away.

MCI (at 8) would require a cost-benefit analysis for adding new services to the universal service definition. No such analysis is required for the initial package under the Act (even if that sort of analysis could be done). There is also no reason to require that analysis for new services.

In the NPRM, the Commission proposed including five services among those receiving universal service support: 1) voice grade access to the public switched network, with the ability to place and receive calls; 2) touch-tone; 3) single party service; 4) access to emergency services; and 5) access to operator services. NPRM at ¶ 16. None of the comments reviewed by OCC disagreed with this list.

The Commission also asked commenters to identify additional services that should receive universal service support. NPRM at ¶ 17. Some parties said the five were sufficient. *See, e.g.*, AHTUC at 5. However, a substantial number of parties supported inclusion of directory listings (*see, e.g.*, AARP at 10, ALTS at 9, Edgemont at 16, NASUCA at 17, NMAG at 3; NYCPB at 4; PaPUC at 13; USTA at 13) and equal access to interexchange carriers (*see, e.g.*, AARP at 10, MoPSC at 5, NASUCA at 18, NMAG at 3 IllCC at 3). OCC suggests that all the proposals of the various parties are deserving of serious attention, and would refer the Commission to the proposals in OCC's initial comments (at 12-13).

V. EVALUATION

Not surprisingly, there was diversity in the time period the various parties proposed for review of the services eligible for universal service support. They ranged from WisPSC (at 13) saying every two years, to Ameritech (at 9) indicating that an evaluation should be scheduled five years from the date of the Commission's order in this docket. The time frame that appeared most frequently was three years. *See, e.g.* CWA at 4, GTE at 3, NYCPB at 8-9. OCC had proposed four years. OCC Initial Comments at 18. It appears now that this was too long, and we hereby revise our proposal to match the majority of commenters with a three-year review

VI. LOW INCOME PROGRAMS

We feel compelled to respond to the position expressed by CBT (at 7) that there should be no federal funding for low-income programs.[15] This is fundamentally contrary to the Act's mandate of affordable rates (Sec. 254(b)(1)) and that there should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service (Sec. 254(b)(5)). The concept of universal service includes allowing low income consumers access to services (Sec. 254(b)(3)) at affordable rates (Sec. 254(b)(1)). As stated by NUL (at 1), "market forces alone will not ensure that poor, urban

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[15] CBT (at 12) states that the Ohio low-income program, Telephone Service Assistance ("TSA") "specifically address[es] problems faced by low-income consumers in maintaining their local telephone service." As of June 1994, only 0.08% of CBT's customers were enrolled in TSA. The overall Ohio average was 0.3%. Public Utilities Commission of Ohio, *Report to the General Assembly, Telephone Service Assistance Lifeline Program* (December 31, 1994), Appendix B. *See also* TexPUC at 11.

communities ... have access to this critical technology and the wealth of information it contains." The same can be said for poor residents of rural areas.

We would address only two other comments in the low-income area. First, OCC agrees with WisPSC (at 13) that if the Commission should increase the federal subscriber line charge, there should be an equivalent increase in lifeline funding.[16] Second, we agree with NASUCA (at 6) that it is vital that all consumers receive adequate information about low-income assistance programs.

VII. SCHOOLS AND LIBRARIES

OCC also has limited replies in this area. As with the low-income issue, CBT takes a position on assistance to schools and libraries that is contrary to the Act. CBT (at 13) states that this issue "should be addressed at state level, rather than by federal mandate." CBT is, of course, entitled to its opinion. However, Congress *has* imposed a federal mandate which this Commission must carry out

As with the low-income programs, it is vital that consumers (in this case, schools and libraries) have adequate information about the services available to them. Thus OCC opposes AT&T's view (at 20) that carriers should not be required to tell these institutions of the discounts made available. Leaving this informational task to state associations (*id.*) is not an adequate substitute for direct information.

[16] See Section X, *infra*, for a discussion of why the SLC should not be increased.

WisPSC (at 14-17) discusses the detailed set of rules Wisconsin has adopted for assistance to schools and libraries. It appears that these rules would serve as a good basis for a federal program. They are clearly worthy of serious consideration.

VIII. ELIGIBLE CARRIERS

CBT (at 3) states that it "does not support high cost credits for *any* alternative provider of local service." (Emphasis in original.)[17] *See also id.* at 9, 10. Ameritech (at 12) would allow only carriers that accept the same "bilateral" obligations imposed on incumbent LECs to be eligible. Along the same lines. GTE (at 8-9) would allow only carriers of last resort to receive funding. *See also* CSE at 12. All of these positions conflict with the specific definition in the Act of "eligible carrier " Sec. 214(e)(1). Time Warner's position (at 11-12) that LECs not subject to rate of return regulation should not receive support also conflicts with the Act. *See also* JSI at 11-12.[18] These definitions improperly narrow the Act's provision on eligible carriers. *See also* MCI at 16-17: full support should go only to carriers providing all digital SS7 single party service as well as equal access and

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[17] CBT (at 4) states that LECs must be able to recover carrier of last resort (COLR) costs (including "undepreciated capital, unamortized cost deferrals, stranded investment, standby capacity, etc."). It is not clear whether CBT is saying that these costs should be recovered through the federal universal service support mechanism. *See also* GTE at 16, n. 30; NECA at 10, US West at 4. Apart from the general lack of merit of CBT's proposal, nothing in the Act gives any indication that any such "LEC make-whole" provision was contemplated by Congress. *See* AHTUC at 6-11.

[18] In order for such a requirement to be competitively neutral, the only new entrants into the local market who would be eligible for support would also be those who made themselves subject to rate of return regulation.

number portability. *See* also TexPUC at 5. This is also inconsistent with the statute's definition of eligible carriers.

ALTS' notion (at 3) that "all facilities-based local exchange providers be eligible to participate in any subsidies" is too broad: Only carriers who offer and advertise the universal service package are eligible. Sec. 214(e)(1).[19] However, we agree with CompTel (at 16) that "facilities" as used in this context in the Act should include both unbundled network elements and leased transmission capacity.[20] We disagree with NECA (at 8) that the universal service support should go to the underlying carrier, because that underlying carrier may not itself be "eligible" under the Act.

LCI (at 6) turns the concept of eligibility on its head. LCI asserts that "[i]f services and rates in rural/high cost areas are reasonably comparable to those in urban areas, carriers serving those areas should not receive universal service support." It is *in order to* keep rates in high cost areas comparable to those in urban areas that support is provided!

What does not conflict with the Act is NYNEX' position (at 24) that eligible carriers should be required to provide the universal service package as a stand-alone offering, not bundled with other services. The position of MoPSC (at 7) that only carriers that provide all core services should be eligible for funding is mandated by the Act: Sec. 214(e) says that an eligible carrier "shall throughout the service area ... offer the services

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[19] MoPSC proposes (at 7-8) that for a transition period the Commission allow funding for carriers who offer less that the complete universal service package. Given how *basic* the package is, OCC cannot imagine an incumbent LEC not offering the full package; and new entrants who want to receive funding should be required to offer the whole package.

[20] We note that TRA argues (at 9-10) that the Act's apparent requirement that an eligible carrier own some facilities presents an "ideal situation" for regulatory forbearance.

that are supported by Federal universal service support mechanisms...." *See also* NECA at 8.

X. COLLECTION MECHANISMS

Much discussion centered on support for or criticism of the current support mechanisms. For instance, WVCAD argues (at 9) that the current USF is explicit and would qualify under the Act. WVCAD states (*id.* at 10) that eligible carriers can easily be integrated into the USF process. That is true, for receipt of the support. However, the *collection mechanism* of the current USF clearly does not meet the requirement of Sec. 254(d) that all interstate telecommunications carriers shall contribute to the support mechanisms.

Understandably, the Carrier Common Line charge (CCL) drew much comment. GTE argues (at 14) that the CCL should be eliminated. *See also* Time Warner at 21. Ameritech (at 21) does not go quite so far, claiming that "[t]here is no longer serious debate over the fact that those portions of the [CCL] charge which recoup ... interstate loop costs in excess of the [SLC] are subsidies." To the contrary, as stated by AARP (at 15), the CCL is "a charge that covers the use of a joint and common facility, the loop." *See also* RIITA at 6; Maine, *et al.* at 14-16; TCG at 11; TOPUC at 6. JSI (at 15) asserts that "the CCL is not a subsidy since it is priced well below its underlying costs."

AT&T argues (at 16) that the CCL should be eliminated and that the Subscriber Line Charge (SLC) should recover all of the interstate portion of common line costs. *See also* Ameritech at 20, AHTUC at 22-24, MFS at 22, Sprint at 3. Eliminating the CCL and increasing the SLC would "allocate to local exchange customers certain costs that are, in fact, shared between many different types of services and customers." IURC at 8. MCI (at 14), on the other hand, proposes to eliminate the CCL but does not propose to increase the SLC. WUTC indicates that it was able to eliminate the intrastate CCL without increasing residential rates. WUTC at 19. Both NASUCA (at 15) and NARUC (at 13-15) oppose increases to the SLC; *see also* PaPUC at 23-24, MoPSC at 19.

CSE argues (at 14) that an increase in the SLC will be offset by reductions in toll rates, and "for many customers a significantly larger portion of their telephone bills represent toll charges." First, this position assumes an effective pass-through of access charge reductions. More importantly, as stated by WVCAD at 11, "[t]he end result of increasing end user charges will be a decrease in costs to those with the greatest ability to pay - those who are high volume, discretionary users of the telecommunications network - and an increase in costs to those with the least ability to pay, low volume users." *See* JSI at 13-15 for the "revenue neutral" impacts of eliminating the CCL on rural companies and their customers.

The PUCO asserts (at 17) that the CCL is inconsistent with the Act because it is not assessed to all carriers. However, as noted above, the CCL is actually payment for the use of the loop by interexchange carriers and thus is not principally a universal service support mechanism. If the PUCO's position were taken to its logical end, *no service* would make any contribution to the cost of the loop, and the entire cost of the loop would be assessed to all carriers as a universal service support mechanism. The Act contemplates nothing of the sort.